THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.26741 of 2005

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Dated:06.01.2006

Between:

Emandi Chiranjeeva Rao, S/o. Bangarayya,
R/o. D.No.55-14-48, APSEB Colony, Seethammadara,

Visakhapatnam.

..... PETITIONER

AND

The District Collector, Visakhapatnam, Visakhapatnam District, and

others.

.....RESPONDENTS

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WRIT PETITION No.26741 of 2005

ORDER:

The petitioner seeks a writ of mandamus directing the respondents namely, the District Collector, the Revenue Divisional Officer and the Mandal Revenue Officer, Visakhapatnam District, not to dispossess him from the land admeasuring Ac.1.00 in Survey No.178 of Paradesipalem Village, Chinagadili Mandal, Visakhapatnam District, assigned to him.

The case of the petitioner is that he was assigned the land admeasuring Ac.1.00 in Survey No.178 of Paradesipalem Village, Chinagadili Mandal, Visakhapatnam

District, by the then Tahsildar Visakhapatnam, through his orders dated 26.06.1979. The petitioner made it suitable for cultivation by spending huge amount and labour, and raised Mango, Coconut and Teakwood trees. The petitioner has been requesting the Mandal Revenue Officer for D-Form patta/permanent assignment. But, he was allegedly informed by the third respondent that there is no necessity to issue a separate order. It is alleged that respondent Nos.2 and 3 came to the petitioner's land on 06.12.2005 and informed the owners of the adjacent lands that they will take possession forcibly for making it into house sites for distribution to their employees. The petitioner, therefore, submitted a representation on 09.12.2005 to the respondents, but respondent Nos.2 and 3 are proclaiming to dispossess the petitioner. Therefore, the present writ petition is filed.

The writ petition was initially listed on 15.12.2005. On instructions, the learned Assistant Government Pleader for Revenue (Assignments) opposed the writ petition. Therefore, this Court directed the learned Assistant Government Pleader to file a counter affidavit. A counter affidavit is filed today. It is stated that the land in Survey No.178 of Paradesipalem Village was taken over under the provisions of the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948, along with other villagers of Vizianagaram Estate. The land in Survey No.178 admeasuring Ac.14.30 cents is classified as Assessed Waste Dry (Government land) in revenue records. An extent of Ac.9.37 cents out of the said land was assigned to six persons. The land was never assigned to the petitioner, and the petitioner produced false documents. It is also stated that the remaining land has been handed over to the District Manager, Housing Corporation for development as directed by the District Collector. A submission is also made that the receipts filed by the petitioner are fabricated. It is stated that these receipts were printed on 25.04.1984, and it is not possible for any Officer to sign them on 10.06.1980, as alleged.

The learned Counsel for the petitioner vehemently contends that the petitioner is in possession of the land and that the land was assigned to him in 1979. Alternatively, he submits that even if there was no valid assignment in favour of the petitioner, unless and until, the respondents follow due process of law, the petitioner cannot be dispossessed from the land. **Per contra,** the learned Assistant Government Pleader submits that there is no land vacant in Survey No.178, and that the same was assigned to different private persons and to the Housing Corporation.

The averment made by the petitioner that on 26.06.1979 he was assigned Ac.1.00 of land by the then Tahsildar, is inconsistent with the averment that he had been requesting the Mandal Revenue Officer for regular permanent D-Form patta. Be that as it is, as rightly pointed out by the learned Assistant Government Pleader, the receipts filed by the petitioner at pages 11 and 13 could not have been signed by the Officer in June 1980, when those receipts were printed in 1984. Therefore, a reasonable inference can be drawn that the writ petition is filed without any factual foundation. Needless to observe that if the petitioner is to be dispossessed from the land, the respondents have to follow due process of law.

The Writ Petition, with the above observations, is dismissed. No costs.

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(V.V.S.RAO, J)

06.01.2006

vs